

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

December 11, 2015

A meeting of the Commission for Human Rights was held on Friday, December 11, 2015. Present at the meeting were Commissioners John B. Susa, Chair, Camille Vella-Wilkinson, Angelyne E. Cooper, Esq. and Iraida Williams. Absent were Commissioners Alberto Aponte Cardona, Esq., Rochelle Bates Lee, and Tolulope Kevin Olasanoye, Esq. The meeting commenced at 12:15 a.m.

Commissioner Williams moved for approval of the minutes of October 30, 2015. The motion was seconded by Commissioner Vella-Wilkinson and carried.

Status Report of Michael D. Évora, Executive Director

A Motion was made by Commissioner Vella-Wilkinson to direct Executive Director Évora to initiate a formal process to request upgrades for the Commission staff. The Motion was seconded by Commissioner Williams and approved.

Also, a proposal for changes in the Executive Director position description was discussed. Commissioner Vella-Wilkinson moved to approve the changes. The Motion was seconded by Commissioner

Williams and all Commissioners in attendance approved.

A proposed request for amendment to the Records Retention Policy was voted on. All case files would be kept for seven (7) years rather than ten, if the request is approved by the designated state officials. Commissioner Vella-Wilkinson moved to approve the request. The Motion was seconded by Commissioner Cooper and all Commissioners in attendance approved. Director Évora will send the request to the Secretary of State for consideration.

A written report was handed out. All new information is in bold print.

Commissioner Meeting -2- December 11, 2015

Case Production Report – Attached

Aged Case Report – No aged cases to report.

Outreach Report – Attached

STATUS REPORT – COMMISSIONERS

OUTREACH: Commissioner Vella-Wilkinson reported that she was the keynote speaker on a salute to veterans at the Holliman Elementary School on November 10th. She also was the keynote speaker at the Warwick Women Warriors luncheon for female veterans to help combat homelessness. Commissioner Vella-Wilkinson also worked on the VEVA Grant, which will help in the training of veterans. On December 4th, Commissioner Vella-Wilkinson participated in the AARP Andrus Award ceremony. The Women's Boot Camp Breakfast will be held on December 17th.

Commissioner Susa proposed the Commission reach out to Muslim leaders in the Rhode Island Community to let them know that the Commission is here to support them and that the laws enforced by the Commission afford protection. Commissioner Williams reported that she is working with the Department of Education regarding unsuitable placement of children with cochlear implants. There will be training for parents with intellectual disabilities relating to children with disabilities.

GENERAL STATUS: There was no word yet on Commissioner appointments. Cynthia Hiatt and Stephen Strycharz reviewed the Commission's Fire Safety procedures and policies with the Commissioners.

Commissioner Meeting -3- December 11, 2015

STATUS REPORT – LEGAL COUNSEL: Cynthia Hiatt and Francis Gaschen

LITIGATION: The Commissioners reviewed pending litigation in which the Commission has a role. Report attached.

LEGISLATION: No legislation to report at this time.

HEARING SCHEDULE/STATUS OF HEARING CASES: The hearing schedule was discussed.

The meeting adjourned at 1:00 p.m. The next regular meeting of the Commission is January 29, 2016 at 12:00 noon.

Respectfully Submitted,

Michael D. Évora
Executive Director

Notes taken by B. Ross

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
11 December 2015**

I. BUDGET

S = State/General Revenue; F = Federal (EEOC/HUD); T = Total

| | FY 2016 | FY 2016 | FY 2016 | FY 2017 | FY 2017 |
|----------|------------------|--------------------------|--------------------|------------------|--------------------------|
| | (Req.) | (Gov.Rec./Passed) | (Rev. Req.) | (Request) | (Constr. Request) |
| S | 1,231,273 | 1,252,174 | 1,247,562 | 1,261,749 | 1,181,192 |
| F | 319,355 | 295,386 | 310,874 | 323,295 | 323,295 |
| T | 1,550,628 | 1,548,010 | 1,558,436 | 1,585,044 | 1,504,487 |

The House and Senate passed the state's FY16 (and FY15 Final) budgets. The particulars for the Commission are noted above.

The Commission's FY16 (Revised) and FY17 (Request) budgets were submitted to the Budget Office on September 17, 2015. Details are

noted above. Per the Budget Instructions, every state agency was asked to submit a two-tiered budget request for FY17, one assuming regular funding (unconstrained), and one assuming a 7.5% reduction in General Revenue (constrained). The Commission submitted Impact Statements advising the Governor, Budget Office and General Assembly of the impact that implementation of the constrained budget would have on our mission/strategic plan.

On October 29, I submitted the Commission's FY16 First Quarter Report to the Budget Office, as required by state law. The Report projects a surplus in General Revenue of \$4,612 at the close of FY16; a deficit of \$15,038 is projected in our federal accounts at the close of FY16. This projected federal deficit does not take into account our increased HUD contract (signed September 2015), which is expected to cover the deficit.

II. FEDERAL CONTRACTS

EEOC – For federal FY12 (ending September 30, 2012), according to EEOC Project Director Marlene Toribio, we closed 237 co-filed cases.

Our contract with EEOC for FY12 was for 235 cases. For federal FY13 (ending September 30, 2013), we closed 201 co-filed cases. Our contract with EEOC for FY13 was for 199 cases. For federal FY14 (ending September 30, 2014), we closed 232 co-filed cases. Our modified contract for FY14 was for 230 cases. For federal FY15 (beginning October 1, 2014), we closed 212 co-filed cases. Our

modified contract for federal FY15 was for 210 cases. For federal FY16 (beginning October 1, 2015), we have closed 33 co-filed cases. Our contract with EEOC is not yet known.

HUD – For FY14, we took in 49 new housing charges, 47 of which were co-filed with HUD, and we processed 51 cases, 50 of which were co-filed with HUD (three of these processed cases were post-PC conciliations). For FY15, we took in 101 new housing charges, 66 of which were co-filed with HUD. (32 were not eligible for co-filing and three were deferred to HUD for investigation.) We processed 94 cases, 65 of which were co-filed with HUD; two of these processed cases were post-PC conciliations. For FY16 (beginning July 1, 2015), we have taken in 37 new housing charges, 33 of which are (or are expected to be) co-filed with HUD. Within this same time period, we have processed 34 cases, 25 of which were co-filed with HUD; 10 of these processed cases were post-PC resolutions.

HUD PARTNERSHIP GRANTS – Because the LGBT/Domestic Violence Victims projects came in under budget, HUD agreed to permit us to use leftover grant funds to produce a general fair housing brochure, poster and Power Point presentation for use in outreaches going forward, and to conduct five fair housing outreaches throughout the state. A general fair housing poster and brochure have been drafted and approved by HUD. We now await word on the pending “military status” amendment to the state fair housing law before proceeding with translation, printing and distribution. The military status bill was

signed by the Governor and is now law. HUD has approved the final brochure and poster designs. They have been translated into five languages and we have received them for distribution. We will schedule the requisite outreaches to complete the project.

III. PERSONNEL – The Commission has undertaken a pay equity study to determine the disparity between salaries at the Commission and those of comparable positions in state service. If the Commissioners so direct, we will initiate the formal process through DOA to request a public hearing for consideration/approval of appropriate pay grade increases for all staff.

IV. OUTREACH – Refer to attached report.

V. GENERAL STATUS

●Meetings with staff members – I continue to meet monthly with individual investigative staff members to monitor case production.

●Case Closures – Refer to attached report.

In FY11, we processed 422 cases; in FY12, we processed 411 cases (approx. 3.5% decrease). For FY13, we processed 389 cases (approx. 5% decrease from FY12). For FY14 (beginning July 1, 2013), we processed 376 cases (decrease of approx. 3% from FY13). For FY15, we processed 425 cases, a 13% increase over cases processed in

FY14. For FY16 (beginning July 1, 2015), as of the end of November, we have processed 153 cases (compare to 146 cases in this same time period in FY15).

●Aged Cases – (Report attached) There are two aged cases in the Commission’s inventory for federal FY16 (beginning October 1, 2015). Both of these cases, which involve the same respondent which is in receivership, are in investigation. The Investigator is working with Legal Counsel Frank Gaschen to attempt to obtain information from the attorney handling the receivership.

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 1998. We ended FY11 with 323 cases in inventory, FY12 with 255 cases, FY13 with 265 cases, and FY14 with 290 cases. As of 12/9/15, we had a total of 320 cases in inventory; three of these cases were pending assignment.

●Annual Report – I have begun working on the FY15 Annual Report. My goal is to have a completed draft for Dr. Susa to review and sign in January.

●Potential Partnership with Roger Williams University Law School – On October 29, Frank Gaschen, Legal Counsel, and I met with officials from RWU Law School to explore the possibility of RWU Law instituting a Fair Housing Clinic focused on housing testing. We

will be following up this initial meeting with HUD to explore funding possibilities. HUD has responded favorably and a meeting with all stakeholders has been scheduled for February 9, 2016.

¶Records Retention – the Commission has drafted a request to the Secretary of State/State Archives and Public Records Administration to amend its Records Retention Policy. The proposed changes are as follows:

>Closed case files – current policy requires retaining for ten years after closure (or final decision on appeal); proposed amendment seeks to change the retention period to seven years;

>Stayed case files – current policy requires retaining permanently; proposed amendment seeks to change the retention period to seven years after decision/court closure (or end of litigation);

>Records related to suits against agency – current policy requires retaining for ten years after end of litigation; proposed amendment seeks to change the retention period to seven years;

>Letters of complaint – current policy requires retaining for ten years; proposed amendment seeks to change the retention period to seven years.

If the Commissioners so approve, the formal request will be submitted to the Secretary of State.

¶Financial Integrity and Accountability – The Commission has completed and submitted its 2015 Financial Integrity and

Accountability Report in compliance with R.I.G.L. Title 35, Chapters 14 and 20 (due December 11; submitted December 9).

●HUD Onsite/Performance Assessment – HUD conducted an onsite visit on March 16 as part of its annual performance assessment process. During the course of the on-site, HUD officials conducted staff interviews and reviewed case files. We continue to await HUD’s report/ conclusions.

Respectfully submitted,

**Michael D. Évora
Executive Director**

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: December 11, 2015

Recent developments are in bold.

Andrade v. Hahn, Smith/Keen LP and Westlo Management, LLC

The Commission’s Motion to Intervene granted. Discovery is ongoing. RICHR Motion to amend the complaint was granted. The

deposition of Angie Lovegrove is to be rescheduled. Lots of discovery ongoing; depositions and court appearances.

Benitez v. Pyramid Case Company, Reynar Vazquez, Mario Meletz, Blanca Cruz and the R.I. Commission for Human Rights

In December 2012, the Commission issued a Decision that found that the Complainant did not prove that the Respondents discriminated against her with respect to ancestral origin discrimination or retaliation. The Complainant's attorney appealed. The Commission filed the administrative record in February 2013. The parties stipulated to dates for filing memoranda and the Complainant's attorney requested more time. The Complainant's attorney plans to request another new stipulation on dates for filing, so the due dates for the memoranda are currently unknown.

BHDDH (MHRH) v. RICHR and the Estate of Dr. John Satti

BHDDH appealed the Commission decision that BHDDH retaliated against Dr. Satti and discriminated against him on the basis of his age. On October 17, 2014, Superior Court Associate Justice Matos issued a decision. He upheld the Commission's findings that BDDH discriminated against Dr. Satti because of his age and in retaliation for protected activity. The Commission Decision on Attorney's Fees issued on March 5, 2015. On September 17, 2015, Dr. Satti's counsel reported that the Respondent paid the attorney's fees as required in the Order. On October 15, 2015, Legal Counsel sent the Respondent's Legal Counsel an email asking that they send notice of

compliance and/or their plan for compliance with the Commission's Order requiring reporting on hires and terminations, training, development of an anti-discrimination policy and posting of Commission posters. On December 9, 2015, Counsel from the Respondent called and said that they would be reporting to the Commission on the status of compliance with the Order by the end of the month.

City of Providence v. RI Commission for Human Rights and Matthieu Yangambi

On November 13, 2013, the City of Providence appealed the Commission's decision in Yangambi v. Providence School Board. The Commission filed an amended administrative record on April 15, 2015. The Commission filed a Motion to Set a Briefing Schedule which was heard on June 10, 2015. Justice Lanphear set October 15, 2015 as the due date for Respondent's Brief and November 15, 2015 as the due date of the briefs of the Commission and the Complainant.

An Order was circulated to the parties and submitted to the Court on June 12, 2015. The Order entered on June 29, 2015. The Commission received the Respondent's Brief on October 15, 2015. The Commission received the Complainant's Brief on November 12, 2015. The Commission filed its Brief on November 13, 2015. The Respondent will be filing a reply brief in January.

City of Providence v. RI Commission for Human Rights and Hortencia Zabala

In November 2014, the City of Providence appealed the Commission's decision in Zabala v. Providence et al. The parties have asked to delay the hearing on damages until the Court decides the appeal and the Hearing Officer has approved that request. The Complainant is now represented by an attorney. The Commission filed the administrative record on July 16, 2015. Commission Counsel has asked the parties whether we can stipulate on a briefing schedule.

Mancini v. City of Providence

This is a case of disability discrimination brought in federal court in Rhode Island. Judge Smith certified a question to the Rhode Island Supreme Court asking whether individuals can be liable under R.I.G.L. Section 28-5-6(7) which provides that it is an unlawful employment practice:

For any person, whether or not an employer, employment agency, labor organization, or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful employment practice.

The Commission Motion to File an Amicus Brief and Amicus Brief were filed on February 5, 2015. The Motion to File an Amicus Brief

was granted on February 23, 2015. On May 11, 2015, the ACLU and the Rhode Island Association for Justice filed an Amicus brief in support of holding individuals liable under the Fair Employment Practices Act. The Plaintiff's Brief was filed on October 8, 2015. The Office of the Attorney General filed an Amicus Brief in November, 2015, arguing that there is no liability for individuals under the Fair Employment Practices Act.

Medeiros v. R & D Roofing and Roger Pratas

The Commission found for the Complainant in this case. He filed a Petition to Enforce the Commission Order. Respondent Pratas appeared and Judge Carnes continued the matter until 11-13-12 to allow Mr. Pratas to obtain legal counsel. Mr. Pratas has told the Complainant's attorney that he has no assets.

RICHR (Acevedo) v. Johnston Equities Associates

Respondents elected and a Superior Court complaint was filed on March 5, 2015. The case was removed to federal court. Rule 16 conference was held. Case may be settled.

RICHR (Grimes) v. Graul, et al.

Oral argument on the defendants' Motion for Summary Judgment was held on February 26. No oral argument was accepted on RICHR's Motion to Strike the report of defendants' expert or RICHR's Motion for Summary Judgment. All matters were taken under advisement. The US Supreme Court upheld disparate impact theory of

discrimination in housing discrimination cases and further briefing was requested by the Court. On August 13, 2015, Justice McConnell granted RICHR motion for summary judgment on issue of liability, granted RICHR motion to strike defendants' expert Ted Sarno and his report and denied the defendants' motion for summary judgment. RICHR to file motion for damages for Grimes and RICHR, costs and attorneys' fees. Judicial settlement conference scheduled for February, trial in March.

RICHR (Lovegrove) v. Escolastico

A Rhode Island judgment was obtained and sent to a Florida lawyer for collection. Counsel is waiting for Ms. Lovegrove to forward funds to the Florida counsel to begin Supplementary Proceedings against Mr. Escolastico. File will not be reopened nor collection efforts be made in the interim by either FL or RI.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. No further collection efforts to be done now.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act was filed against defendants. An offer of \$2500 was made to the plaintiff to settle all of the claims. No further collection efforts to be done at this time.

RICHR (Morin) v. Teofilo Silva, et al.

A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located. No further collection efforts to be done at this time.

RICHR (Oliveira) v. Furniture Warehouse, et al.

A Petition to Enforce was filed in December 2012. Petition granted. Plaintiff's file to be reviewed for an attempt at collection. Adversary complaint was filed in Bankruptcy Court to contest the dischargeability of judgment of one defendant. Debt was declared to be non-dischargeable. Suit on behalf of complainant to be filed in Superior Court.

RICHR (Pellerano) v. Kuznetsov

A complaint was filed to enforce the May, 2012 Decision of the Commission. The petition for enforcement was granted. No further collection efforts to be done at this time. Lien placed on the residential property of the defendant.

RICHR v. McElroy

This case was filed in the Providence County Superior Court to enforce a negotiated settlement. No further collection efforts to be done at this time.

RICHR v. POP, et al.

Counsel for the individual defendant advised that she is drafting the ad to be published and we will work out a training session. Ad to be printed. Training completed.

RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport

The case is resolved. The Commission will annually monitor City training. Training was completed for 2014.

T.G.I. Fridays (Carlson Restaurants) v. Selvidio and Évora

The Commission filed a petition to enforce its Order. Friday's filed their answer, corrected the blank poster and will get information relative to training. No information provided as of this date.